

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

vs.

10-CR-320

ED GEORGE PARENTEAU, JEFFREY CHARLES BURFEINDT,

Defendants.  
-----x

Transcript of *INITIAL APPEARANCE* held on September 29,  
2011, at the James T. Foley U.S. Courthouse, 445 Broadway,  
Albany, New York, the HONORABLE DAVID R. HOMER, presiding.

A P P E A R A N C E S

For Government:

OFFICE OF THE UNITED STATES ATTORNEY  
218 James T. Foley U.S. Courthouse  
Albany, New York 12207-2924

BY: NATHANIEL DORFMAN, ESQ.  
RICHARD D. BELLIS, ESQ.  
Assistant U.S. Attorney

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1 THE COURT: Today is Wednesday, September 29th,  
2 2010. The time is 1:49 p.m. in the matter of the United  
3 States of America versus Jeffrey Charles Burfeindt, case  
4 number 10-CR-320.

5 Can we have appearances for the record, please.

6 MR. DORFMAN: Nat Dorfman for the United States.  
7 Good afternoon, your Honor.

8 THE COURT: Good afternoon. And are you Mr.  
9 Burfeindt?

10 THE DEFENDANT: Yes, Jeffrey Charles.

11 THE COURT: I'm sorry?

12 THE DEFENDANT: Jeffrey Charles, yes.

13 THE COURT: And do you speak and understand  
14 English?

15 THE DEFENDANT: I believe so, yes.

16 THE COURT: And do you read and write English?

17 THE DEFENDANT: Yes.

18 THE COURT: Thank you. Mr. Dorfman, before we  
19 begin, we're starting 20 minutes late. I was told you would  
20 be ready at 1:30. Was there a problem?

21 MR. DORFMAN: I was ready before 1:30, your Honor.  
22 There was an issue relating to bringing the defendant to the  
23 courtroom and my understanding it was an issue as to whether  
24 the Marshals should bring him here or the case agents and  
25 unbeknownst to me, that problem arose and I was up here but

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1 that's the nature of the delay; but we certainly apologize  
2 for the inconvenience.

3 THE COURT: For the future, as I'm sure you know,  
4 there is no issue as to who's to produce the defendant in  
5 court for a first appearance. It's the arresting agency.

6 MR. DORFMAN: And I was --

7 THE COURT: Is that the FBI?

8 MR. DORFMAN: I believe it was the FBI who made the  
9 arrest today, a member of the task force.

10 THE COURT: You'll take whatever steps to make sure  
11 they understand what the rules have been for years.

12 MR. DORFMAN: I certainly will, your Honor.

13 THE COURT: It's their responsibility.

14 MR. DORFMAN: I will let them know.

15 THE COURT: All right. Mr. Dorfman, can you tell  
16 me what the charges are and the maximum penalties.

17 MR. DORFMAN: Sure, your Honor. We're here for an  
18 initial appearance and/or arraignment -- I'm not certain --  
19 but we can deal with the initial appearance.

20 A federal grand jury has returned a two count  
21 Indictment charging Jeffrey Charles Burfeindt with violations  
22 of 18, United States Code, Sections 1341 and 1349.

23 Count 1 of the Indictment charges Mr. Burfeindt  
24 with conspiracy to commit mail fraud. If convicted of that  
25 offense, he faces a maximum term of incarceration of 20

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1 years, a maximum fine of \$250,000, a term of supervised  
2 release of up to three years and a mandatory special  
3 assessment of \$100.

4 Count 2 of the Indictment charges Mr. Burfeindt  
5 with committing mail fraud and the same penalties apply.  
6 There is a maximum term of incarceration of 20 years, a  
7 maximum fine of \$250,000, \$100 special assessment, and a term  
8 of supervised release of up to three years.

9 THE COURT: Has a copy of the Indictment been  
10 provided to Mr. Burfeindt?

11 MR. DORFMAN: I'm providing him with a copy as I  
12 speak, your Honor.

13 THE COURT: Thank you. Mr. Burfeindt, since this  
14 is your first appearance in court on this charge, there are  
15 certain matters that I must advise you about.

16 The first purpose of this proceeding is to advise  
17 you formally of the charge which has resulted in your arrest.  
18 The charge is contained in a document known as the  
19 Indictment. A copy of the Indictment has been provided to  
20 you.

21 In addition, the government's attorney has just  
22 summarized for you the maximum penalties that you face if  
23 you're found guilty of the charges.

24 You have certain important rights in this  
25 proceeding. The first is the right to remain silent and you

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1 need not answer any questions or make any statements if your  
2 answers to those questions or those statements would tend to  
3 incriminate you. You may answer questions and make  
4 statements if you choose but you must understand that  
5 anything you say can be used against you in this or any other  
6 legal proceeding.

7           The next important right that you have is the right  
8 to be represented by an attorney throughout this proceeding.  
9 If you cannot afford an attorney, one can be appointed to  
10 represent you at no cost to yourself.

11           Mr. Burfeindt, is it your intention to retain your  
12 own attorney or to proceed in some other fashion?

13           THE DEFENDANT: When I spoke to -- I'm trying to  
14 remember who before -- I have spoken to a few people, but  
15 the -- what was her name, Joan, maybe.

16           THE COURT: Joan Fahey is the Pretrial Services  
17 Probation Officer who interviewed you.

18           THE DEFENDANT: Yeah. Yeah. I started speaking to  
19 her initially and there's someone that is -- that has power  
20 of attorney for me and I don't know if that was ever -- she  
21 was going to try to do something with contacting her and I  
22 don't know whatever happened with that.

23           THE COURT: Well, a power of attorney is not an  
24 attorney admitted to practice in this court and those are the  
25 individuals who can represent individuals such as yourself

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1 charged with a crime. A power of attorney is not sufficient  
2 for someone to represent you. They have to be an attorney  
3 admitted to practice and unless they are, they would not be  
4 contacted by the Probation Office or the Court in any way.

5 THE DEFENDANT: Okay. I'm not sure about if --  
6 where that all stands, if she could or couldn't. That's what  
7 I had mentioned to --

8 THE COURT: Well, she wrote to my attention and I  
9 directed her not to contact the person because they were not  
10 an attorney admitted to practice in this court.

11 THE DEFENDANT: Oh.

12 THE COURT: So no contact was made, to my  
13 knowledge.

14 THE DEFENDANT: Okay.

15 THE COURT: So the question is whether you intend  
16 to retain your own attorney admitted to practice in this  
17 court to represent you or to proceed, for example, by  
18 representing yourself or you can apply for appointment of  
19 counsel. You have some choices to make here.

20 THE DEFENDANT: All right. Could you just give  
21 me --

22 THE COURT: If you want to consider your options,  
23 we can adjourn the matter for a day or two while you do  
24 consider it. You can consult with friends or whatever you  
25 want to do.

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1           THE DEFENDANT: Could you just give me those  
2 options again?

3           THE COURT: You can retain your own attorney  
4 admitted to practice in this court to represent you.

5           THE DEFENDANT: Is there a way -- could I write  
6 something? I don't have a pen but is there a way to write  
7 something down?

8           (Off-the-record discussion held.)

9           THE COURT: Number one, you can retain your own  
10 attorney.

11          THE DEFENDANT: Okay.

12          THE COURT: Number two, you can apply for the  
13 appointment of an attorney to represent you. That means  
14 you'd have to fill out a financial affidavit so that I could  
15 determine whether you qualify. I don't know anything about  
16 your financial condition at this point.

17          THE DEFENDANT: Okay.

18          THE COURT: Number three, you can request to  
19 represent yourself in this matter.

20          THE DEFENDANT: Okay.

21          THE COURT: If you decide to represent yourself,  
22 what I would propose to do is to appoint an attorney who's  
23 admitted to practice as what's called stand-by counsel,  
24 someone with who you can consult and seek advice on how to  
25 proceed as you represent yourself. It's called stand-by

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1 counsel.

2 THE DEFENDANT: Yeah, I just wrote that down.

3 Thank you.

4 THE COURT: So those are your three choices.

5 THE DEFENDANT: Okay.

6 THE COURT: And what I would propose to do as to  
7 that is to adjourn this matter until Friday at 1:30 so you  
8 can consider how you wish to proceed. Is that agreeable?

9 THE DEFENDANT: 1:30, you said?

10 THE COURT: That's correct.

11 THE DEFENDANT: Okay.

12 THE COURT: All right. Now, on the remaining  
13 matter, then, since the arraignment will be postponed until  
14 after you resolve your representation, the only remaining  
15 matter is the question of bail.

16 What's the government's position, Mr. Dorfman?

17 MR. DORFMAN: Had the defendant been interviewed by  
18 Pretrial Services, we would have requested that he be  
19 remanded -- or, I'm sorry, be released on \$25,000 cash or  
20 secured bond but also subject to supervision by Pretrial  
21 Services. I've been advised by Pretrial Services that they  
22 cannot supervise a defendant who does not consent to an  
23 interview. So there is the conundrum that we are facing.  
24 And in light of that and given that, based on their report,  
25 it appears that the defendant has been charged with bail



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1 jumping in 2009, we would request that the Court impose a  
2 secured requirement that the defendant post either \$100,000  
3 in cash or a secured bond prior to any release.

4 THE COURT: All right. Mr. Burfeindt, do you  
5 understand what just happened?

6 THE DEFENDANT: Somewhat.

7 THE COURT: The government recommends that you be  
8 released on certain conditions, principally including that  
9 you post \$100,000 as security for your release. Can you post  
10 that?

11 THE DEFENDANT: A hundred thousand dollars, I -- I  
12 don't have money, no. What I can tell you, Judge, is that --

13 THE COURT: Before I hear what you have to say, let  
14 me go on.

15 THE DEFENDANT: Okay.

16 THE COURT: The government's position is affected  
17 in significant respects by what they've been advised was your  
18 failure to be interviewed by the Probation Office. By way of  
19 background, whenever any criminal defendant is arrested and  
20 considered for bail, they're interviewed by the Probation  
21 Office as to the background -- matters unrelated to the  
22 charges, background, criminal record, employment, family  
23 ties, ties to the community, matters that are relevant to  
24 bail so that the Court and the parties can assess the case as  
25 to whether there's any risk or danger of flight or danger to

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1 the community and so forth, what conditions should be  
2 imposed. For example, if there's a history of drug abuse,  
3 then drug testing would be a condition and the like. But  
4 unless there's an interview, the Court can't determine what  
5 conditions would be appropriate for release.

6 THE DEFENDANT: All right.

7 THE COURT: The government can't determine its  
8 position. You did not agree to be interviewed today. That's  
9 your choice. But one of the consequences is that it affects  
10 the decision on bail.

11 What I'm going to do is adjourn this matter until  
12 Friday at 1:30 here in this courtroom. On Friday I will ask  
13 the Probation Office to interview you again. It is your  
14 right not to provide any information. I simply tell you that  
15 it may have some impact on the decision that's made with  
16 respect to your release and, pending that, you will be  
17 detained pending the hearing on Friday.

18 Now, is there anything else, Mr. Dorfman?

19 MR. DORFMAN: Your Honor, I just would ask  
20 permission for us to reconsider our position on detention on  
21 Friday, as well.

22 THE COURT: Reconsider and seek detention or reduce  
23 the amount of your --

24 MR. DORFMAN: Both ways.

25 THE COURT: You're preserving all rights?

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1 MR. DORFMAN: Yes, your Honor.

2 THE COURT: All right. I understand. Is there  
3 anything further, Mr. Dorfman?

4 MR. DORFMAN: No, thank you.

5 THE COURT: Mr. Burfeindt, anything further?

6 THE DEFENDANT: Yeah, I just want to make a  
7 comment. When Ms. Fahey -- I'm sorry, I'm not good with  
8 names -- when she came in, we started talking. I didn't say  
9 that I didn't want to talk to her. I just said that I have a  
10 power of attorney and I guess she said she was going to go  
11 and speak to you and get back to me. So that was kind of  
12 left in limbo. So if it's possible -- I don't know if it  
13 is -- I would, you know, now that I know what transpired, I  
14 would speak to her and is it possible we can do this -- I can  
15 do this. I would have done it before if I would have known  
16 where everything stood. Is that --

17 THE COURT: Ms. Fahey, can I see you here for a  
18 minute.

19 (Off-the-record discussion held.)

20 THE COURT: I've just spoken with the Pretrial  
21 Services Officer Fahey. Either she or someone else from the  
22 Probation Office will interview you now downstairs in the  
23 Marshal Service where you met before. So we're going to take  
24 a recess and they'll interview you and we'll come back to  
25 court and see what the results are and the government and I

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1 can reconsider our positions.

2 THE DEFENDANT: Okay. Thank you.

3 THE COURT: Anything else, Mr. Dorfman? We'll let  
4 you know when we're ready.

5 MR. DORFMAN: Whose custody is he now in?

6 THE COURT: He is now in the Marshal's Service  
7 custody.

8 Mr. Burfeindt, you're committed to the custody of  
9 the United States Marshal while we take a recess. I ask that  
10 he be returned to the Marshal service for an interview down  
11 there. Thank you.

12 THE CLERK: Off the record.

13 (Recess taken.)

14 (Open court, 3:02 p.m.)

15 THE CLERK: Court is back in session.

16 THE COURT: The record should reflect that  
17 Mr. Belliss has replaced Mr. Dorfman on behalf of the  
18 government. Mr. Burfeindt is also present in person.

19 The record should further reflect that during the  
20 recess, Mr. Burfeindt was interviewed by a Pretrial Services  
21 officer. In the interest of time, a written report was not  
22 submitted but an oral report was provided to the Court,  
23 counsel for the government and Mr. Burfeindt, which included,  
24 among other things, a recommendation that Mr. Burfeindt be  
25 released on the \$25,000 bond secured by cash or property with

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1 certain other conditions.

2 Mr. Belliss, what's the government's position on  
3 this?

4 MR. BELLISS: Your Honor, the government echos Ms.  
5 Fahey's recommendation that this defendant should be remanded  
6 until the posting of a \$25,000 secured bond, along with  
7 imposition of the standard District conditions, including a  
8 special condition that he not be permitted to file any type  
9 of judgment or lien without prior approval of the Court.

10 THE COURT: All right. Mr. Burfeindt, do you wish  
11 to be heard on the recommended disposition or anything else  
12 with respect to bail?

13 THE DEFENDANT: I would like to say something --

14 THE COURT: All right.

15 THE DEFENDANT: -- if I may. Judge Homer, I live  
16 my life by the Bible and what's in the Bible and I do my best  
17 to do that. I do not have the funds that have been discussed  
18 but my word is my bond. If I say that I will do something, I  
19 will do that. And if that could be taken into consideration,  
20 I would appreciate it. I don't know what the status of my  
21 family is in terms of -- but that's -- that's all that I'm  
22 asking for. If I give my word to do something, I certainly  
23 will do that. If I am to be here or you want me here at a  
24 certain time, I'll be here and you have my word on that and  
25 I'll, you know, to me that is -- for me to be honest with

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1 people is the most important thing to me and, you know, I  
2 have to answer, you know, on judgment day I will have to  
3 answer for my actions and what I do or don't do; but I can  
4 give you my word that if I say I will be here, I will be  
5 here.

6 THE COURT: Mr. Burfeindt, I'd like to ask you a  
7 question. You don't have to answer it because you're  
8 protected by the Fifth Amendment privilege. I want to make  
9 sure you understand that. So it's with some hesitancy that I  
10 ask you that. You say that your word is your bond and, of  
11 course, as with anyone else, we want to believe you.

12 THE DEFENDANT: Mm-mm.

13 THE COURT: On the other hand, there are warrants  
14 outstanding for your failure to appear in other courts where  
15 presumably you gave them your word, too. How do I resolve  
16 that?

17 THE DEFENDANT: Okay. With the, with the one --  
18 the one warrant that Ms. Fahey had mentioned, I was unaware  
19 but that action was -- there was something pending in the  
20 County Court at the time, so when I thought that was being  
21 acted upon and then when the officer came to me, he had asked  
22 me, he said, you were supposed to be in court. And I said,  
23 this -- there was a paper put into the County Supreme Court  
24 and to my understanding I wasn't. And he goes, well, that's  
25 not what I understand. So that's how that came up.

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1           It wasn't that I, you know, I didn't say, you know,  
2   that -- that was my understanding that when there was  
3   something put into the higher court, that they were going to  
4   act on that first and then that the town court would act.  
5   That's -- that was my belief, so I wasn't, you know, I didn't  
6   not go. So, I don't know if -- I'm trying to do the best  
7   answer to the question, if I can.

8           THE COURT: All right. Well, I --

9           THE DEFENDANT: And then --

10          THE COURT: -- appreciate that.

11          THE DEFENDANT: -- that was since -- sorry, I  
12   didn't mean to step on you. And that was since removed to  
13   the federal court. So it was sort of in a -- in, like, limbo  
14   for a while. So nothing ever got back to the town court  
15   again. So, if, if that brings any clarity, I don't know, but  
16   I'm just trying to put some of the other things behind, you  
17   know, instead of just --

18          THE COURT: All right. Thank you.

19          Anything else, Mr. Belliss?

20          MR. BELLISS: Judge, I can give the Court, if it  
21   would like, the government's version of the facts involving  
22   the Town of Lloyd Court and the failure to appear warrant  
23   that was issued by the town justice. It differs  
24   significantly from Mr. Burfeindt's recollection of events.

25          THE COURT: Please.

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1 MR. BELLISS: Specifically Mr. Burfeindt and what  
2 is now his codefendant Mr. Parenteau were arrested in March  
3 of 2009 and brought before the Town of Lloyd Town Justice,  
4 Judge Rizzo. They were permitted bail and they were told to  
5 reappear about a month later. They did, in fact, reappear,  
6 were told that their matter would be pushed over another  
7 month while the Court resolved their motions to dismiss for  
8 the lack of jurisdiction with a specific admonishment by  
9 Judge Rizzo of their next court appearance, I think it was in  
10 May of 2009, and that they both promised to appear. Neither  
11 of those two defendants did appear for that court appearance  
12 and that was the basis for the issuance of the warrant sent  
13 out for the failure to appear from the Town of Lloyd.

14 Any other failure to appear warrants I don't have  
15 specific knowledge of at this juncture.

16 THE DEFENDANT: Judge Homer, may I say something.

17 THE COURT: Briefly.

18 THE DEFENDANT: Thank you. I don't remember  
19 exactly but I believe the timeline that he gave of that next  
20 time was that's when the county -- the paperwork was put into  
21 the County Court on that matter and that was still -- there  
22 was -- it wasn't really answered. It was just kind of -- we  
23 were kind of waiting to hear back to see what they were going  
24 to do. And then I found out after the fact that it didn't  
25 matter if you did something in County Court, you still had to



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1 appear. That was an error on what I -- on my understanding,  
2 but I found out about that after the fact, not before the  
3 fact, so that is truthful. That is exactly what happened.

4 THE COURT: All right. The dispute here is not  
5 over whether there would be conditions set. There's no  
6 dispute that conditions would be set. The dispute here is  
7 over the conditions to be set which would include the  
8 financial condition.

9 The recommendation of the government and Pretrial  
10 Services is that Mr. Burfeindt be released on a \$25,000 bond  
11 secured by cash or property. Mr. Burfeindt represents that  
12 he has no access to \$25,000 which could be filed, which would  
13 require for him to remain in custody in the absence of the  
14 posting of that amount.

15 In resolving this dispute, the record that appears  
16 before me is that Mr. Burfeindt is charged with felonies here  
17 in federal court and a prior proceeding in state court.  
18 There are multiple, not single, but multiple warrants that  
19 have been issued for his failure to appear there.

20 While I have no basis for questioning Mr.  
21 Burfeindt's sincerity in representing that he would -- his  
22 word is his bond. The record before me is that he has failed  
23 to appear on multiple occasions in state court which gives  
24 the Court concern for his willingness to appear as directed  
25 in federal court.

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1           Further, Mr. Burfeindt's residence is uncertain, at  
2 best. It appears to have been changing regularly in the  
3 past, in the recent past. There is no stable employment that  
4 has been demonstrated to the Court, no significant family  
5 ties to this area, nothing which would, as in other cases,  
6 give reasonable cause to believe that Mr. Burfeindt feels any  
7 particular allegiance to the area that would cause him or  
8 motivate him to remain rather than flee. So there are  
9 significant reasons why there is reasonable cause to believe  
10 that Mr. Burfeindt poses a risk of flight if he's released.

11           Against that, essentially we have Mr. Burfeindt's  
12 representation that he would appear if released in this case.  
13 Given this record and these circumstances, even though I want  
14 to believe Mr. Burfeindt, I have to be guided, as a judge, by  
15 the facts presented me; and the facts presented here  
16 represent a significant concern in which Mr. Burfeindt would  
17 not appear, unless there's some financial condition imposed  
18 for his release.

19           I am going to accept the recommendation of the  
20 Pretrial Services Office that Mr. Burfeindt be released on a  
21 condition which includes \$25,000 in cash or property. I  
22 understand Mr. Burfeindt may not have that in his personal  
23 possession but Mr. Burfeindt does have access to family and  
24 friends who may be willing to do that. I advised Mr.  
25 Burfeindt that if any of them lack sufficient resources to

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1 post that amount but are financially responsible and willing  
2 to cosign a bond, then I would consider that in the  
3 alternative. But until they come forward and represent that,  
4 the condition will remain \$25,000 in cash or property.

5 What that means, Mr. Burfeindt, is that if you find  
6 two individuals who are financially responsible; that is,  
7 have jobs, own homes, have assets, who are willing to cosign  
8 a bond on your behalf -- that means that they promise to pay  
9 that amount if you fail to appear -- then I would consider  
10 that as an alternative to actually posting \$25,000. That  
11 would represent their promise to pay that amount if you  
12 failed to appear but they wouldn't have to post it. They do  
13 have to, however, be financially responsible and be willing  
14 to cosign the bond.

15 I'm going to tell you now the remainder of the  
16 conditions of your release for your release. Mr. Burfeindt,  
17 please listen because when I finish, I'll ask you if you have  
18 any questions about them and if you understand them. I'll  
19 then ask you to review them in writing and to sign certain  
20 documents here.

21 These are the conditions. The first is the  
22 financial condition about which I just advised you. The  
23 remaining conditions are as follows. You shall not commit  
24 any offense in violation of federal, state, or local law.

25 You shall provide the address and telephone number

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1 where you'll be living. If the telephone number changes, you  
2 must immediately notify the Pretrial Services Office, the  
3 Court, and the government's counsel, and, if you have an  
4 attorney at that time, your attorney of the change in your  
5 telephone number. If you wish to move from the address you  
6 provide; that is, to change the address, you must first  
7 obtain the permission of the Pretrial Services office before  
8 you move.

9           You shall appear at all court proceedings as you're  
10 directed to do so by any judge and at the dates, times and  
11 places of those proceedings you're told to appear by your  
12 attorney.

13           If it has not already been done, you shall provide  
14 a DNA sample to law enforcement officers at their request.  
15 You shall report to the Pretrial Services Office on a regular  
16 basis at the dates, times and places that that office directs  
17 you to do so.

18           You shall remain within the State of New York where  
19 the charges in this case are pending. And you shall maintain  
20 or actively seek employment.

21           You shall surrender any passport in your possession  
22 to the Clerk of Court and you shall not apply for any travel  
23 documents while the charges are pending.

24           You shall refrain from possessing a firearm,  
25 destructive device or other dangerous weapon. You shall

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1 refrain from the excessive use of alcohol. You shall refrain  
2 from any use or possession whatsoever of a narcotic drug or  
3 other controlled substance.

4 You shall not file any liens or judgments against  
5 any individuals or entities without the prior permission of  
6 the Court. You shall provide financial information to the  
7 Pretrial Services Office as requested by that office. You  
8 shall not incur any additional lines of credit or incur any  
9 additional debt without the prior permission of the Pretrial  
10 Services Office.

11 Are there any other conditions which the government  
12 wishes to be considered, Mr. Belliss?

13 MR. BELLISS: No, your Honor.

14 THE COURT: Mr. Burfeindt, do you have any  
15 questions about those conditions?

16 THE DEFENDANT: The only question I have being of  
17 the financial situation I'm in and trying to -- is it -- is  
18 it possible to lower the amount because I don't know if it's  
19 possible for me to, you know, get \$25,000? Just my parents,  
20 my mom works. My dad is semi-retired. He's got health  
21 issues.

22 THE COURT: Well, if you find in your exploration  
23 of resources that you can come up with a portion or  
24 significant portion of that but not quite 25,000, I'll  
25 reconsider whatever you want to ask me. So, yes, you can

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1 ask. I don't know if that answers your question.

2 THE DEFENDANT: Well, it's -- yeah, it sort of  
3 answers, if it was, you know, I don't know. I haven't really  
4 asked -- I think Ms. Fahey said she spoke to I don't know if  
5 it was my father who she spoke to.

6 THE COURT: Your father.

7 THE DEFENDANT: Okay.

8 THE COURT: But you have to explore that yourself.  
9 If you walk in and say I've got, you know, \$22,000, that  
10 might be a basis for reconsideration. If you walk in and say  
11 I've got, you know, \$50, that's probably not going to do it.

12 THE DEFENDANT: No, no. I understand.

13 THE COURT: All right. Do you have any other  
14 questions?

15 THE DEFENDANT: Well, you pretty much covered  
16 everything, I believe. And I understand you don't know --  
17 you don't know me, but I, you know, what I was planning on  
18 doing is being in one spot with -- in my family's home. So I  
19 wouldn't be -- it wouldn't be some, you know, not knowing  
20 where I am. I would be with my family. Like I said, my  
21 parents do have health issues. I would like to be there with  
22 them anyway supporting them in some way, if I possibly could.  
23 And I will show up, you know, if I -- if I say I'm going to  
24 be here, I will be here and I will be at my family's home. I  
25 will not be floating around.

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1           THE COURT: No, I understand what you're saying,  
2 but you have to understand, Mr. Burfeindt, it is a frequent  
3 occurrence that individuals who are arrested come into court  
4 and state with the best of intentions that they will comply  
5 with all of their conditions, stay where they're supposed to  
6 stay and appear when they're supposed to appear and I can't  
7 assess those representations other than to look at conduct in  
8 the past and that's what I do here, I look at the facts and  
9 the conduct in the past and that gives me concern.

10           Any other questions?

11           THE DEFENDANT: No. No, if, if you wanted, anyone  
12 that knows me, if you ask them if I'm an honest person, if I  
13 say what I'm going to do, they would verify that, any of my  
14 friends, my family, if you ask them that.

15           THE COURT: My suggestion is you go to your family  
16 and see if they will support those contentions with financial  
17 backing or a willingness to cosign the bond.

18           Anything else?

19           THE DEFENDANT: How do -- do I have an opportunity  
20 to try to contact someone?

21           THE COURT: A number is provided at the jail  
22 wherever you're being incarcerated. And you'll be back in  
23 court here on Friday at 1:30. People are able to visit you  
24 at the jail whenever the regular visiting hours are.

25           Anything else? Do you believe you understand those

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1 conditions?

2 THE DEFENDANT: Yeah, I, I tried to jot a few of  
3 them down, but --

4 THE COURT: You'll get a copy in writing  
5 momentarily. There are certain consequences which may also  
6 occur to you if you violate any of these conditions. First,  
7 the \$25,000 bond can be forfeited to the government. Your  
8 failure to appear would constitute a separate crime for which  
9 you could be imprisoned.

10 If you violate any of these conditions, a warrant  
11 may be issued for your arrest. You may be placed in jail  
12 until trial and you may be prosecuted separately for contempt  
13 of Court. If you commit any crime when you are released, you  
14 may subject yourself to a more severe punishment in this case  
15 than you would otherwise receive if you are found guilty in  
16 this case.

17 And it is a separate crime for anyone to try to  
18 influence a juror, to threaten or attempt to bribe anyone who  
19 may have information about this case, to retaliate against  
20 anyone for providing information about this case or to  
21 obstruct the administration of justice in any way.

22 Do you have any questions about this possible  
23 consequences?

24 THE DEFENDANT: No.

25 THE COURT: Do you believe you understand them?



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1 THE DEFENDANT: I believe, yeah, I believe so.

2 THE COURT: All right. I'll ask the clerk to  
3 present them to you in writing. Please review them. If you  
4 have any questions before you sign them, please ask me and  
5 then sign them where indicated.

6 (Off-the-record discussion held.)

7 THE COURT: Anything else, Mr. Belliss?

8 MR. BELLISS: No, Judge.

9 THE COURT: All right. Thank you.

10 Mr. Burfeindt, you're remanded to the custody of  
11 the United States Marshal pending a hearing on Friday at  
12 1:30. Thank you.

13 THE CLERK: Off the record.

14 (Proceedings adjourned.)

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C E R T I F I C A T I O N

I, DIANE S. MARTENS, Registered Professional Reporter, DO HEREBY CERTIFY that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing is a true and correct copy of same and the whole thereof.

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DIANE S. MARTENS, FCRR